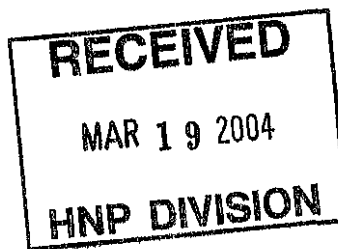




SHAPELL INDUSTRIES of NORTHERN CALIFORNIA
A Division of Shapell Industries, Inc.

March 18, 2004



Mr. Felix J. Reliford
Principal Housing Planner
City of Milpitas
455 East Calaveras Blvd.
Milpitas, CA. 95035

RE: Owner Participation Agreement for the Milpitas Town Center, Milpitas, CA

Dear Mr. Reliford:

This letter is to confirm I have reviewed the Owner Participation draft Agreement for the Milpitas Town Center. Shapell Industries is in conceptual agreement with the draft agreement, but will need to have the final document reviewed and approved by our legal council.

Shapell Industries looks forward to working with the City of Milpitas. Please call me if you have any questions.

Sincerely,

Kelly Erardi _{nc}

Kelly Erardi
Vice President
Shapell Industries of Northern California

COMMERCIAL & INDUSTRIAL

OWNER PARTICIPATION AGREEMENT

by and between

REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS

and

SHAPELL INDUSTRIES OF NORTHERN CALIFORNIA, L.L.C.

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OWNER PARTICIPATION AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____ 2004, by and between the REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS, a public body, corporate and politic (the "Agency") and SHAPELL INDUSTRIES OF NORTHERN CALIFORNIA, L.L.C., a Delaware Limited Liability Corporation (the "Participant") (collectively "Parties").

RECITALS

A. Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of California (California Health and Safety Code Section 33000 et seq.

B. Participant is the owner of certain real property located at [add address], Milpitas, California, known generally as Milpitas Town Center ("Site") and more particularly described in the legal description in Attachment No. 1 attached hereto and incorporated herein by this reference and as diagramed on the map in Attachment No. 2 attached hereto and incorporated herein by this reference. Participant has proposed on the Site a sixty-five unit development project consisting of for-sale units of which sixteen (16) three-bedroom units shall be affordable to moderate-income persons and households and a new 54,000 square foot Safeway Supermarket (hereinafter the "Project").

C. Site is located within the Milpitas Redevelopment Plan Project Area No. 1. (the "Project Area"), which was approved and adopted by the City Council of the City of Milpitas by Ordinance No. 192 and as subsequently amended by means of ordinances of the City Council.

D. In conjunction with the Project, Participant intends to construct, or fund the construction of, certain public improvements and certain pedestrian improvements on other property owned by Participant ("the Improvements") that the Agency finds to be of significant benefit to the Project Area.

E. To effectuate the Redevelopment Plan for the Project Area, the Agency desires to assist Participant in the development of the Project by making certain financial assistance, as described in this Agreement, available to Participant for the Project and to provide for the development of the Property in conformity with the Redevelopment Plan.

F. The Agency intends to create affordable housing opportunities for persons, families, and households of very low, low, and moderate incomes. Pursuant to this Agreement and the Regulatory Agreement attached hereto as Attachment No. 3 and incorporated herein by this reference ("Regulatory Agreement"), it is contemplated by the Parties that no fewer than sixteen (16) of the residential units to be constructed as part of the Project ("Affordable Homes") will be made available at affordable housing cost to moderate-income households. In exchange for the Participant's construction of the Improvements, the Agency will use Agency affordable housing funds to subsidize the construction, acquisition, or rehabilitation of four (4) very low-

income units at other locations ("the Rehabilitation"). In total, the construction, acquisition, or rehabilitation of these twenty (20) affordable units is equal to more than fifteen percent (15%) of the total units to be constructed in the Project and the four very low-income units are equal to forty percent (40%) of fifteen percent (15%) of the total number of units in the Project.

G. The parties estimate the value of the Improvements to be \$391,260

H. The Agency estimates the cost of the Rehabilitation to be less than \$391,260.

I. Thus, the value of the Participant's contribution towards the construction of the Improvements is greater than to the Agency's payment towards the Rehabilitation.

J. The Agency's financial contribution to the Project is solely related to the production of affordable housing pursuant to Health and Safety Code section 33334.2, and, excepting that contribution, the construction of the Project is not paid for in whole or in part with public funds but rather is entirely privately funded..

K. Agency has determined that providing assistance to Participant for the Project is in the best interest of the City and the welfare of its citizens and will help the City and the Agency meet their affordable housing goals.

NOW, THEREFORE, in consideration of the foregoing Recitals and the covenants and promises hereinafter contained, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Agency and Participant hereby agree as follows:

AGREEMENT

I. [§100] SUBJECT OF AGREEMENT

[§101] Purpose of This Agreement; Memorandum of Understanding.

A. The purpose of this Agreement is to effectuate the Redevelopment Plan for the Project Area by providing for the development of certain real property located within the Project Area, at Milpitas, and more particularly described in Attachment No. 1, (the "Site"), as well as assisting the Agency and the City in the provision of affordable housing for very low, low and moderate income persons and households within the City.

[§102] The Redevelopment Plan.

This Agreement is subject to the provisions of the Redevelopment Plan that was approved and adopted by the City Council of the City of Milpitas on September 21, 1976, by Ordinance No. 192 and restated and amended on June 17, 2003 by Ordinance No. 192.14. The Redevelopment Plan, as it now exists and as it may be subsequently amended, is incorporated herein by reference and made a part hereof as though fully set forth herein. Any amendments to the Redevelopment Plan after the date of this Agreement which changes the uses or development permitted on the Site or which otherwise change the restrictions or controls that apply to the Site

or otherwise affect the Participant's obligations or rights with respect to the Site shall require the written consent of the Participant.

[§103] The Project Area

The Project Area is located in the City of Milpitas, California, and the exact boundaries of the Project Area are specifically described in the eighth amendment of the Redevelopment Plan which is available for public inspection in the Office of the Milpitas City Clerk at 455 East Calaveras Boulevard, Milpitas, California 95035.

[§104] The Site

The Site is that certain real property located within the Project Area and as more particularly described in the "Legal Description of the Site," attached hereto as Attachment No. 1. The Site is shown on the "Map of the Site," attached hereto as Attachment No. 2 and incorporated herein by reference.

[§105] The Agency.

The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.).

The principal office of the Agency is located at 455 East Calaveras Boulevard, Milpitas, California 95035.

"Agency," as used in this Agreement, includes the Redevelopment Agency of the City of Milpitas and any assignee of or successor to its rights, powers and responsibilities.

[§106] The Participant/Owner of the Site.

The Participant is Shapell Industries of Northern California, L.L.C., a Delaware Limited Liability Corporation. The principal office of the Participant is located at 100 North Milpitas Blvd., Milpitas, California 95035. The Participant qualifies as an Owner Participant as that term is used in the Redevelopment Plan and Community Redevelopment Law, Section 33000 *et seq.*

[§107] Transfer and Assignment.

A. The qualifications and identity of the Participant are of particular concern to the Agency, and it is because of such qualifications and identity that the Agency is entering into this Agreement with the Participant.

B. Prior to the Agency's issuance of a Certificate of Completion as set forth in Section 217, Participant shall not assign or Transfer this Agreement, or any of Participant's rights hereunder, or any interest in the Site or in the Project to be constructed thereon, directly or indirectly, voluntarily or by operation of law, without the prior written approval of the Agency,

which approval may be withheld in Agency's sole and absolute discretion, and such purported transfer without such approval shall be null and void.

"Transfer" shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Agreement, the Site, or the Project thereon. A Transfer shall also include the transfer to any person, entity, or group of persons or entities acting in concert of more than twenty-five percent (25%) (in aggregate) of the present ownership and/or control of any person or entity constituting Participant, taking all transfers into account on a cumulative basis.

C. This Agreement may be terminated by the Agency pursuant to Section 404 hereof, if, without the prior written approval of the Agency, Participant assigns or Transfers this Agreement or the Site prior to the Agency's issuance of a Certificate of Completion. If the Agency terminates this Agreement because of a change in the ownership or control of Participant or the Site, without prior written approval of the Agency, the obligations and responsibilities of the parties shall be as set forth in the Regulatory Agreement and Declaration of Covenants and Restrictions Affecting Real Property ("Regulatory Agreement"), restricting the Site to the use set forth in Section 300 of this Agreement.

II. [§200] DEVELOPMENT OF THE SITE

[§201] Development of the Site by the Participant

The Participant shall develop the Site according to the Scope of Development and the Project Description conceptual Site Plan and Elevations, thereon set forth in Attachment No. 4, attached hereto and incorporated herein by this reference.

[§202] Construction of Public Improvements by the Participant

Participant shall construct the public improvements described in Attachment No. 5 ("the Improvements") and as required by Attachment No. 5. Except as otherwise provided in Attachment No. 5, all costs of designing, developing, and constructing the Improvements shall be borne solely by Developer and shall not be an obligation of the Agency. In lieu of constructing the Improvements as required by this section 202, Developer may pay the Agency to complete the Improvements, if authorized by Attachment No. 5.

[§203] Construction of Affordable Homes by Participant

A. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest that no fewer than sixteen (16) of the residential units to be constructed as part of the Project will be made available to moderate-income households in accordance with the terms and conditions of the Regulatory Agreement. The covenants of the Regulatory Agreement shall run with the land and shall remain in effect for the periods of time specified therein. The Regulatory Agreement shall be recorded against the Property.

B. Owner shall be required to submit to the Agency a Final Distribution Plan that indicates the location of the Affordable Homes within the Project. The Final Distribution Plan is subject to the approval of the Executive Director of the Agency, or his or her designee. However, the

parties agree that the affordable homes will be distributed throughout the development as conceptually shown on the Preliminary Distribution Plan in Attachment No. 6 attached hereto and incorporated herein by this reference.

C. The Agency and Participant hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Participant's interest in the Property is rendered less valuable thereby. The Agency and Participant hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Property by persons to whom the Affordable Homes will be affordable, the future owners of each Affordable Home ("Owner(s)").

[§204] Agency Financial Assistance.

A. In exchange for the affordability restrictions on the sixteen (16) Affordable Homes, Agency shall, upon issuance of an Approval of Final Inspection by the City, deposit Fifty Thousand Dollars (\$50,000) for each Affordable Home into the Agency's silent-second mortgage program whereby the moneys deposited shall be used to provide silent second mortgages to purchasers of the Moderate-Income Affordable Homes. The silent second mortgages will be effected as set forth in the Regulatory Agreement and at the time of the sale of each Affordable Home, and the Agency shall deliver to escrow the sum of Fifty Thousand Dollars (\$50,000) on behalf of the homebuyer for the benefit of the Participant as a portion of the purchase price for each Affordable Home. The Agency's silent second mortgage shall be secured by a Promissory Note and a Subordinate Deed of Trust ("Loan Documents") as required by the Regulatory Agreement. The Loan Documents shall be executed and recorded with the Grant Deed.

B. In the event that Participant is unable to entice a qualified buyer to purchase any particular Affordable Home at a sales price that is equal to or more than the following Minimum Sales Prices, the Agency and Participant shall provide funds (in equal shares) to increase the amount of the Agency-provided silent-second mortgages by an amount necessary to entice a qualified buyer to purchase the unit. Participant may choose to contribute its share by reducing the sales price of the unit. The "Minimum Sales Prices" shall be as follows: 3 bedroom units, \$370,000. In the event that the market price (which shall be determined with reference to the price at which similarly sized market-rate units within the Project are sold) of the unit is less than the Minimum Sales Price, the Agency shall have no obligation to increase the amount of the silent-second contribution as otherwise required by this subsection.

C. Agency, itself or in conjunction with a non-profit housing developer, shall rehabilitate a minimum of four (4) units of existing housing and subject such units to a regulatory agreement that requires such units, for a period not less than 25 years, to be leased only to Very Low Income households.

[§205] Scope of Development/Time of Construction.

The Participant agrees that the Site and the Improvements shall be developed in accordance with the Scope of Development as set forth in Attachment No. 3 within the time set forth in the Schedule of Performance, set forth in Attachment No. 7, attached hereto and incorporated herein by this reference.

[§206] Commencement of Construction Pursuant to Plans.

The Participant shall commence construction of the Project no later than the date set forth in the Schedule of Performance, Attachment No. 7, and only if Participant has met the following conditions:

(a) Participant has the funds or firm commitments for the funds that are required to construct the Project in a timely and proper manner and to satisfy all of the covenants in this Agreement.

(b) Participant shall prepare and submit to the City preliminary and final landscaping and finish grading plans, and Participant has received all necessary governmental permits and land use approvals from the City to allow construction of the Project, or portion thereof, in accordance with the plans and specifications (or other construction documents).

[§207] City Review of Plans, Drawings and Related Documents.

The City and the Participant shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to the City can receive prompt consideration.

[§208] Cost of Construction.

The cost of developing the Site and constructing the Project thereon shall be borne by the Participant, except to the extent of Agency Financial Contribution. The Agency and the Participant shall each pay the costs necessary to administer and carry out their respective responsibilities and obligations under this Agreement.

[§209] City and Other Governmental Agency Permits and Fees.

Prior to the commencement of construction on the Site, or any portion thereof, the Participant shall, at its own expense, secure, or cause to be secured, any and all permits which may be required by the City or any other governmental agency affected by such construction. The Agency shall provide all proper assistance to the Participant in securing these permits.

[§210] Construction Schedule.

Participant shall commence and complete all construction and development within the time specified in the Schedule of Performance set forth in Attachment No. 7 or such reasonable extension of these times as provided in Section 503 of this Agreement.

[§211] Insurance.

Commencing with the Effective Date, hereinafter defined, the Participant shall maintain the following minimum insurance coverage, issued by an insurer and in a form reasonably acceptable to the Agency:

(i) A policy of Worker's Compensation Insurance in such amounts as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for both the Participant and the Agency against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persona retained by Participant in the course of carrying out the work or services contemplated in this Agreement.

(ii) Comprehensive General Liability Insurance written on a per occurrence basis in an amount not less than: for death and bodily injury, with (i) combined single limit of One Million Dollars (\$1,000,000) or Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) in the aggregate, and (b) for property damage, One Million Dollars (\$1,000,000) per occurrence. Property insurance covering the Project Site covering all risks of loss, including flood, for 100% of the replacement value, with deductible, if any, acceptable to the Agency.

(iii) Comprehensive Automotive Insurance written on a per occurrence basis in an amount no less than either (i) bodily injury liability limits of Five Hundred Thousand dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence and property damage liability of Five Hundred Thousand Dollars (\$500,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate or (ii) combined single limit liability of One Million Dollars (\$1,000,000). Said policy shall include coverage for owned, non-owned, leased, and hired cars.

The required insurance shall be provided under an occurrence form, and the Participant shall maintain such coverage continuously throughout the term of this Agreement. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above. Comprehensive General Liability, Comprehensive Automobile Liability and Property insurance policies shall be endorsed to name as additional insured the Agency, the City and their respective board members, officers, agents, and employees. All policies and bonds shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the Agency pursuant to 504 below. Upon the Agency's request at any time during the term of this Agreement, Participant shall provide certificates of insurance, in a form and with insurers reasonable acceptable to the Agency, evidencing compliance with the requirements of this Section 209. Notwithstanding anything to the contrary in the foregoing, provided that the Participant maintains a program of self insurance is equal to or greater than the above liability limits and provided the Participant otherwise complies with the other requirements of this Section 209, the Participant may choose, at its discretion, to self-insure in lieu of issuance of the above-listed policies.

If a holder of a Security Financing Interest requires greater insurance coverage, then such greater coverage shall apply in the place of the coverage described above for purposes of this Section 209.

[§212] Hazardous Materials.

A. The Participant shall not use, generate, manufacture, store, or dispose of, on, under, or about the Site, or transport to or from the Site, any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including (without limitation) any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to as "Hazardous Materials") except such of the foregoing as may be customarily and lawfully kept and used in and about residential property and in construction thereof.

The Participant shall immediately advise the Agency in writing if at any time it receives written notice of (a) any and all enforcement, cleanup, removal, or other governmental or regulatory actions instituted, completed, or threatened against the Participant or the Site pursuant to any applicable federal, state, or local laws, ordinances, or regulations relating to any Hazardous Materials ("Hazardous Materials Law"); (b) all claims made or threatened by any third party against the Grantee or the Property relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Hazardous Materials (the matters set forth in clauses (a) and (b) above are referred to as "Hazardous Materials Claims"); and (c) the Participant's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Site that could cause the Site or any part thereof to be classified as "border-zone property" under California Health and Safety Code Sections 25220 *et seq.* or corresponding regulations, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability, or use of the Site under any Hazardous Materials Law.

B. The Participant shall indemnify, defend (with counsel reasonably chosen by the Agency, at the Agency's option), and hold harmless the Agency and its directors, officers, employees, and agents from and against any loss, damage, costs, expense, or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on or under the Site, including (without limitation): (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup, or detoxification of the Site and the preparation and implementation of any closure, remedial, or other required plans; and (c) all reasonable costs and expenses incurred by the Agency in connection with clauses (a) and (b), including (but not limited to) reasonable attorneys' fees. This paragraph shall survive termination of this Agreement.

[§213] Local State and Federal Laws.

The Participant shall carry out the construction of the Project in conformity with all applicable laws, including all applicable federal and state labor laws and standards. The Participant agrees to defend, indemnify, protect and hold harmless the Agency and the City and their officers, employees, and agents from, regarding and against any all liabilities, obligations, orders, claims, damages, fines, penalties and expenses of any kind whatsoever, together with fees (including, without limitation, reasonable attorneys' fees), whenever arising resulting from or in connection with Participant's obligation to comply with all laws with respect to the construction

of the Project , including, without limitation, all applicable federal and state labor laws and standards.

[§214] Anti-discrimination During Construction.

The Participant, for itself, its successors and assigns, agrees that in the construction of the Project provided for in this Agreement, the Participant will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual preference, marital status, ancestry or national origin.

[§215] Taxes, Assessments, Encumbrances and Liens.

The Participant shall pay prior to delinquency all real estate property taxes and assessments assessed and levied on or against the Site. Upon failure to so pay, Participant shall remove, or shall have removed, any levy, or attachment made on the Site, or shall assure the satisfaction thereof within a reasonable time, but in any event, prior to the sale thereunder. Nothing herein contained shall be deemed to prohibit Participant from contesting the validity or amounts of any tax assessment, encumbrance or lien, or to limit the remedies available to Participant in respect thereto.

[§216] Encumbrances, Deeds of Trust, Other Financing.

Prior to the issuance by the Agency of a Certificate of Completion for the Site or portion of the Site, pursuant to Section 217, Participant shall not, except as expressly permitted by Section 107 of this Agreement, sell, transfer, convey, assign or lease the whole or any part of the Site or the buildings or improvements thereon without the prior written approval of the Agency. This prohibition shall not apply subsequent to the issuance of the Certificate of Completion for the Site or portion of the Site. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Site or to prohibit or restrict the leasing of any part or parts of a building or structure when the project and improvements are completed.

Except as otherwise provided in this Agreement or in a separate written agreement by the Agency, no such transfer, assignment or approval by the Agency shall be deemed to relieve Participant or any other party from any obligations under this Agreement until completion of development as evidenced by the issuance of the Certificate of Completion.

Mortgages, deeds of trust, sales and leases-back or any other form of conveyance required for any reasonable method of financing the Project improvements are permitted before issuance of a Certificate of Completion. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

[§217] Holder Not Obligated to Construct.

The holder of any mortgage, deed of trust or other security interest pertaining to the Site shall in no way be obligated by the provisions of this Agreement to construct, or complete such

construction of, the Project, or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

[§218] Notice of Default to Mortgagee, Deed of Trust or Other Security Interest Holders;
Right to Cure.

Whenever the Agency shall deliver any notice or demand to the Participant with respect to any breach or default by the Participant in the completion of construction of the Project, the Agency shall at the same time deliver to each holder of record of any mortgage, deed of trust or other security interest pertaining to the Site (who has previously made a request therefore), a copy of such notice or demand. Each such holder shall (insofar as the rights of the Agency are concerned) have the right, at its option within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction of the improvements or the completion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made), without first having expressly assumed the Participant's obligations to the Agency by written agreement satisfactory to the Agency. The holder in that event must agree to complete, in the manner provided in this Agreement, the construction of the Project to which the lien or title of such holder relates, and submit evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing the Project shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency.

[§219] Certificate of Completion.

Promptly after the completion of the construction of the Project by the Participant, and upon the written request by the Participant, the Agency shall furnish the Participant with a Certificate of Completion, in the form attached hereto as Attachment No. 8 and incorporated herein by reference.

The Certificate of Completion shall be, and shall so state, conclusive determination of satisfactory completion of the construction of the Project required by this Agreement upon the Site and of full compliance with the terms hereof related to the Site. After issuance of a Certificate of Completion, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the portion of the Site covered by said Certificate of Completion shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by any covenants contained in the deed, lease, mortgage, deed of trust, contract or other instrument of transfer in accordance with the provisions of Sections 301-306 of this and the Regulatory Agreement pursuant to Section 218 of this Agreement. Except as otherwise provided herein, after the issuance of the a Certificate of Completion for the applicable portion of the Site, neither the Agency, the City or any other person shall have any rights, remedies or controls with respect to the applicable portion or

portions of the Site that it would otherwise have or be entitled to exercise under this Agreement as a result of a default in or breach of any provision of this Agreement, and the respective rights and obligations of the parties with reference to the Site shall be as set forth in the deed, lease, mortgage, deed of trust, contract or other instrument of transfer in accordance with the provisions of Sections 301-306 of this Agreement and the Regulatory Agreement pursuant to Section 218 of this Agreement.

The Certificate of Completion shall not be withheld or delayed by the Agency, unless the Participant shall have failed to satisfactorily complete the construction of the Project in substantial compliance with the terms and provisions hereof and the approved architectural, landscape, site and construction plans for development of the Site. Upon issuance of the Certificate of Completion, the respective rights and obligations of the parties shall be limited to those set forth in the Regulatory Agreement, as described in Section 218 of this Agreement.

The Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of the Participant to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the construction of the Project or any part thereof. The Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code.

[§220] Regulatory Agreement and Declaration of Covenants and Conditions Affecting Real Property.

Concurrently with the execution of this Agreement, the Participant and the Agency have executed a Regulatory Agreement in the form attached hereto as Attachment No. 3 and attached hereto, and incorporated herein by reference, which provides for certain covenants and restrictions conditions on the part of the Participant and subsequent owners of affordable homes built on the site consistent with the terms and purpose of this Sections 301 thru 306 of this Agreement. The Agency is authorized to, and shall, record the Regulatory Agreement upon mutual execution of this Agreement by the parties.

III. [§300] USE OF THE SITE

[§301] General Use of the Site.

The Participant covenants and agrees for itself, its successors, assigns and every successor in interest to the Site, or any part thereof, that there shall be sixteen (16) units and constructed on the Site that are reserved for moderate-income households and that such Affordable Homes constructed on the Site shall be used only for owner occupied, single family dwelling units restricted to moderate-income persons and households in accordance with this Agreement, the Regulatory Agreement, and the Redevelopment Plan. The foregoing covenant shall run with the land according to the terms of the Regulatory Agreement, Attachment No.3.

[§302] Obligation to Refrain from Discrimination.

The Participant covenants and agrees for itself, its successors, assigns and every successor in interest to the Participant's interest of the Site, or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual preference, marital status, national origin physical or mental handicap or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Participant's interest of the Site, nor shall the Participant themselves, or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Participant's interest of the Site. The foregoing covenants shall run with the Participant's interest of the Site.

[§303] Form of Nondiscrimination and Nonsegregation Clause.

The Participant shall refrain from restricting the rental, sale or lease of the Participant's interest of the Site on the basis of race, color, creed, religion, sex, sexual preference, marital status, national origin or ancestry of any person. All such deeds, leases or contracts other than warehouse receipts or contracts for the use of space for storage executed after the date of this Agreement shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual preference, marital status, physical and mental handicap national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the grantee, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual preference, marital status, physical and mental handicap, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased, nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

(c) In contracts: "There shall be no discrimination against or segregation of any persons or group of persons on account of race, color, creed, religion, sex, sexual preference, marital status, physical or mental handicap national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises."

[§304] Rights of Access.

For the purposes of determining whether the Project has been completed in accordance with this Agreement, after providing Participant with notice, representatives of the Agency and the City shall have the reasonable right of access to the Site at all reasonable times, without charges or fees for the purpose of inspection of the Site for compliance with this Agreement. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency. The right of entry shall be at the sole risk and expense of the Agency or City and any damage to the Site, or to the improvements constructed thereon caused by the Agency or City shall promptly be repaired at the sole cost and expense of the Agency or City.

[§305] Effect and Duration of Covenants.

The covenants contained in Section 301 of this Agreement shall remain in effect for a period of Forty-Five (45) years commencing upon recordation of the Regulatory Agreement. The covenants against discrimination contained in Sections 302 and 303 of this Agreement shall remain in effect in perpetuity. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the part of the Participant and any successors and assigns to the Participant's interest of the Site or any part thereof, and the tenants, lessees, subtenants, sublessees and vendees of the Site, for the benefit of and in favor of the Agency, its successors and assigns, the City and any successor in interest thereto. Concurrently with its execution of this Agreement, the Participant has executed the Regulatory Agreement, Attachment No. 3 which provides for the covenants contained in this Agreement. The Agency is authorized to and shall record the Regulatory Agreement upon issuance of the Certificate of Completion.

[§306] Indemnity.

The Participant shall indemnify, defend (with counsel reasonably chosen by Agency, at the Agency's option), and hold the Agency, the City, and their employees, officers, agents, and board members harmless against all claims which arise out of or in connection with the ownership, development, or construction on, or in connection with the Site (including, without limitation, construction of the Project) by the Participant, contractors, subcontractors, agents, employees, or prospective buyers and subsequent owners of any portion of the Site. This indemnity shall not extend to any claim arising solely from the Agency's or City's gross

negligence or willful misconduct or the Agency's failure to perform its obligations under this Agreement. This Section 306 shall survive the termination of this Agreement.

IV. [§400] DEFAULT, REMEDIES

[§401] Defaults.

Failure or delay by either party to perform any material term or provision of this Agreement constitutes a default under this Agreement. The non-defaulting party shall notify the defaulting party that a default exists and that the defaulting party must cure or commence to cure same within thirty (30) days of receipt of the notice of default. The party who so fails or delays must within thirty (30) days of receipt of the notice of default, commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with reasonable diligence and during any period of curing shall not be in default. Any failure or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any section's or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

[§402] Legal Actions.

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Santa Clara, State of California, in any other appropriate court in that county, or in the appropriate Federal District Court in the State of California.

The non-defaulting party may also, at its option, cure the breach and sue in any court of proper jurisdiction to collect the reasonable costs incurred by virtue of curing or correcting the defaulting party's breach. Further, the non-defaulting party may file legal action to require the defaulting party to specifically perform the terms and conditions of this Agreement, or the Regulatory Agreement, Attachment No. 3.

[§403] Applicable Law.

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

[§404] Agency Termination of Agreement.

Prior to Agency issuance of a Certificate of Completion for the Site, the Agency may terminate this Agreement for any of the reasons set forth in subsections (a) through (e) below:

(a) Except as permitted under this Agreement, the Participant transfers or assigns or attempts to transfer or assign any rights herein or in the Site or the buildings or improvements thereon without the prior written approval of the Agency; or

(b) The Participant fails to commence or complete construction of the Project within the time set forth in the Schedule of Performance, Attachment No. 7, and any such failure shall not be cured within thirty (30) days after the date of receipt of written demand by the Agency; or

(c) Except as otherwise provided in this Agreement, there is any material change (voluntary or involuntary) in the management or control of the Participant contrary to the provisions of Section 107 hereof; or

(d) The Participant fails to submit to the City, or the City reasonably disapproves, final architectural, landscape, site and construction plans and related documents within the time set forth in the Schedule of Performance, Attachment No. 7, and any such failure shall not be cured or commenced to be cured within thirty (30) days after the date of receipt of written demand by the Agency and such cure is not diligently prosecuted to completion; or

(e) Any other default of the Participant with respect to its obligations under this Agreement which shall not be cured or commenced to be cured within thirty (30) days after the date of receipt of written demand by the Agency and such cure is not diligently prosecuted to completion.

V. [§500] GENERAL PROVISIONS

[§501] Conflicts of Interest.

No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

The Participant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

[§502] Non-liability of Agency Officials and Employees.

No member, official or employee of the Agency shall be personally liable to the Participant in the event of any default or breach by the Agency or for any amount which may become due to the Participant or on any obligations under the terms of this Agreement.

[§503] Enforced Delay Extension of Times of Performance.

In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of

the public enemy; epidemics; quarantine restrictions, freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Agency shall not excuse performance by the Agency) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Agency and the Participant.

[§504] Notices and Communications.

Formal notices, demands, and communications between Agency and Participant shall be sufficiently given if personally delivered, delivered by a reputable same-day or overnight courier services that provides a receipt showing date and time of delivery, or delivered by United States mail, registered or certified, postage prepaid, return receipt requested, to the following addresses:

If to Agency: Milpitas Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, CA 95035
Attn: Executive Director

With a copy to: Meyers Nave
555 12th Street
Suite 1500
Oakland, CA 94607
Attn: Agency Counsel

If to Participant: Shapell Industries of Northern California, L.L.C.
100 North Milpitas Blvd.
Milpitas, CA 95035
Attn: Kelly Erardi

All notices shall be deemed to be received as of the earlier of actual receipt by the addressee thereof or the expiration of forty-eight (48) hours after depositing in the United States Postal System in the manner described in this Section. Such written notices, demands, and communications may be sent in the same manner to such other addresses as a party may from time to time designate by mail.

[§505] Ownership of Documents.

Copies of all drawings, specifications, reports, records, documents and other materials prepared by Participant, its employees, agents and subcontractors, in the performance of this Agreement, which documents are in the possession of Participant and are not confidential shall be delivered to Agency upon request in the event of a termination of this Agreement, and

Participant shall have no claim for additional compensation as a result of the exercise by Agency of their respective rights hereunder. Agency shall have an unrestricted right to use such documents and materials as if it were in all respects the owner of the same. Participant makes no warranty or representation regarding the accuracy or sufficiency of such documents for any future use by Agency and Participant shall have no liability therefore. Notwithstanding the foregoing, Agency shall not have any right to sell, license, convey or transfer the documents and materials to any third party, or to use the documents and materials for any other site, except in the case of a termination of this Agreement due to default of Participant.

[§506] Modifications.

Any alternation, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

[§507] Binding Effect of Agreement.

This Agreement shall be binding upon and shall insure to the benefit of the party hereto, their legal representatives, successors, and assigns. This Agreement shall likewise be binding upon and obligate the Site and the successors in interest, owner or owners thereof, and all of the tenants, lessees, sublessees, and occupants of such Site.

[§508] Assurances to Act in Good Faith.

Agency and Participant agree to execute all documents and instruments and to take all action and shall use their best efforts to accomplish the purposes of this Agreement. Agency and Participant shall each diligently and in good faith pursue the satisfaction of any conditions or contingences subject to their approval.

[§509] Severability.

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If, however, any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

[§510] Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement.

[§511] Entire Agreement.

This Agreement and all documents incorporated herein contain the entire understanding among the parties hereto relating to the transaction contemplated herein and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein and shall be of no further force or effect.

[§512] Waiver.

All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of Agency or Participant, as applicable, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and Participant. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

[§513] Agency Indemnity of City.

Agency shall indemnify, defend, and hold harmless City from and against any and all actions, suits, claims, damages liabilities, including legal costs and attorney's fees and expert witness fees, whether or not suit is actually filed, and any judgment rendered against City and/or its officers, employees, agent, representatives, and volunteers (hereinafter, collectively, "Claims") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with this Agreement.

[§514] Counterparts.

This Agreement may be executed in counterparts, each of which, when this Agreement shall have been signed by all the parties hereto, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[§515] Authority.

Agency represents and warrants that: (i) it is a redevelopment agency duly organized and existing under the laws of the State of California; (ii) by proper action of Agency, Agency has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (iii) the entering into this Agreement by Agency does not violate any provision of any other agreement to which Agency is a party.

Participant represents and warrants that: (i) it is duly organized and existing under the laws of the State of California; (ii) by proper action of Participant, Participant has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized

principals or officers; and (iii) the entering into this Agreement by Participant does not violate any provision of any other agreement to which Participant is a party.

[§516] Attachments.

This Agreement includes all exhibits and attachments attached hereto, which by this reference are incorporated in this Agreement in their entirety. This Agreement also includes the Redevelopment Plan and any other documents incorporated herein by reference, as though fully set forth herein.

**VI. [§600] TIME FOR EXECUTION OF AGREEMENT BY AGENCY;
RECORDATION**

This Agreement, when executed by the Participant must be authorized, executed and delivered to the Agency within thirty (30) days after the date of signature by the Participant or this Agreement shall be void, except to the extent that the Agency may consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement. The Effective Date of this Agreement shall be the date when this Agreement has been approved by the Agency Board and executed by the Agency.

_____, 2004 REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS

By: _____
Chairman

By: _____
Secretary

“AGENCY”

_____, 2004 _____
Shapell Industries of Northern California, LLC

By: _____

Title: _____

By: _____

Title: _____

“PARTICIPANT”

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF THE SITE.

ATTACHMENT NO. 2

SITE MAP

ATTACHMENT NO. 3
REGULATORY AGREEMENT

ATTACHMENT NO. 4

**SCOPE OF DEVELOPMENT
(PROJECT DESCRIPTION, CONCEPTUAL SITE PLAN & ELEVATIONS)**

ATTACHMENT NO. 5

IMPROVEMENTS TO BE CONSTRUCTED BY PARTICIPANT

- a) **Off-Site Public Improvements** – Participant shall fund or construct the following off-site improvements (“the Off-Site Improvements”) to the approval of the City. If Participant elects to construct all or any of the Off-Site Improvements, it shall execute a public improvement agreement prior to issuance of any building permit in the Project. The construction shall be completed prior to issuance of the first certificate of occupancy in the Project or as specified in the public improvement agreement:
- i) Reconstruction of a sidewalk connection on city property, along the north side of the current library that connects the main entrance of the library to the Town Center shopping center near the existing Staples store. These enhancements shall include decorative pavement, illuminated bollards, and trees with uplighting. The parties estimate the cost of construction of this item is \$92,400.
 - ii) Improvements to parking lot/drive aisle in the vicinity of the Veteran’s Memorial to create a single perpendicular intersection with the proposed Town Center ring road (near the existing Staples store). The parties estimate that the cost of construction of this item is \$141,600.
 - iii) The applicant shall install pedestrian crossing lights, replace the crosswalk pavement with decorative paving, or similar improvements to the approval of the City Engineer that will improve the safety of pedestrians crossing Milpitas Boulevard near the library. The parties estimate that the cost of construction of this item is \$34,320.
 - iv) Construct a new decorative crosswalk across Beresford Court that connects from the end of the south sidewalk (at Beresford Square) to the sidewalk on the north, to provide access to Milpitas Boulevard. In addition, all of the sidewalk on the south end after said point shall be removed. The parties estimate that the cost of construction of this item is \$22,920.
- b) If the Applicant elects to fund rather than construct the Off-Site Improvements, it shall pay the Agency \$291,240 upon issuance of the first building permit in the Project. If the Applicant elects to construct the Off-Site Improvements, it shall submit adequate documentation detailing the costs of the Off-Site Improvements with the plans submitted for encroachment permits. The improvement plans and costs will be reviewed and approved by the City Engineer prior to any encroachment permit being issued for the improvements. **Private Improvements on Shapell Property** – Participant shall construct the following improvements (“the Private Improvements”) on Shapell property to the approval of the City prior to the issuance of any certificate of occupancy:
- i) Construct a decorative pedestrian path (to include lighting, landscaping and upgraded paving) from the entrance to Albertson’s/Longs through the Beresford Center parking lot to safely connect pedestrians to the sidewalk on the west side of Milpitas Boulevard. The parties estimate that the cost of construction of this

item is \$64,020.

- ii) A new ramp that connects from the Town Center to the Berryessa Creek trail and bridge on Shapell Town Center property. The parties estimate that the cost of construction of this item is \$36,000.

The parties estimate that the total cost for the Private Improvements is \$100,020.

The parties estimate the total value of the Applicant's contribution to construction of the Improvements to be \$391,260.

ATTACHMENT NO. 6

PRELIMINARY DISTRIBUTION PLAN

ATTACHMENT NO. 7

SCHEDULE OF PERFORMANCE

Action	Date
Execution of OPA	No later than 30 calendar days after Agency approval.
Submission to the City of required drawings and supplemental reports for construction permits, including but not limited to demolition, grading, site improvement, building, and encroachment permits.	No later than 14 months from execution of OPA.
Execution of Improvement Agreement with City for completion of public improvements	Prior to issuance of first building permit.
Commence construction of the Project.	No later than 30 days from issuance of any construction permit (e.g., grading, improvement plans, building).
Establishment of a holding account by the Agency by which the silent second loan amount will be deposited and released during escrow.	No later than 60 days from the commencement of construction.
Recordation the Regulatory Agreement, Attachment No. 6.	No later than 90 days from the issuance of construction permits.
Submission of Final Disbursement Plan indicating location of the deed restricted units on the Site.	Upon submission of construction plans.
Completion of the Improvements	Prior to issuance of first certificate of occupancy or as specified in the Improvement Agreement.
Marketing of the deed restricted units.	Commence simultaneously with the marketing of the non-restricted units until the agreed upon amount has been sold.
Complete construction of project, City approval of all Final Inspections and Initial Acceptance of public improvements.	No later than 60 months from commencement of construction.

Action	Date
Recordation of Certificate of Completion.	Submission to the County Recorder's office no later than 30 days from the completion of construction of the Project.

ATTACHMENT NO. 8

FORM OF CERTIFICATE OF COMPLETION
(See Following Pages)

RECORDED REQUESTED BY
AND
WHEN RECORDED, RETURN TO:

Milpitas Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, CA 95035
Attn: Executive Director

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)
(EXEMPT FROM RECORDING FEE PER GOV. CODE §6103)

CERTIFICATE OF COMPLETION OF CONSTRUCTION OF THE PROJECT.

WHEREAS, pursuant to an Owner Participation Agreement dated _____, 2004 (the "OPA"), by and between the REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS (hereinafter referred to as the "Agency") and SHAPELL INDUSTRIES OF NORTHERN CALIFORNIA, L.L.C., a Delaware Limited Liability corporation (hereinafter referred to as the "Participant"), the Participant has developed that certain real property (the "Site") legally described in the attached Exhibit A by constructing, or causing to be constructed, the Project required under the OPA; and

WHEREAS, pursuant to Section 217 of the OPA, promptly after completion of the construction and development of the Project on the Site to be completed by the Participant and upon the written request by the Participant, the Agency is required to furnish the Participant with a Certificate of Completion; and

WHEREAS, the issuance by the Agency of the Certificate of Completion shall be conclusive evidence that the Participant has complied with the terms of the OPA pertaining to construction of the Project upon the Site; and

WHEREAS, the Participant has requested that the Agency furnish the Participant with the Certificate of Completion; and

WHEREAS, the Agency has conclusively determined that construction of the Project as required by the OPA has been satisfactorily completed.

NOW, THEREFORE:

1. As provided in the OPA, the Agency does hereby certify that construction of the Project on the Site, as required by the OPA, has been fully and satisfactorily performed and completed.

2. The OPA is therefore of no further force and effect, and all rights, duties, obligations and liabilities of the Agency and the Participant thereunder shall cease to exist. Any continuing and existing rights, duties, obligations and liabilities of the Agency and the Participant pertaining to the portion of the Site upon which the Project has been constructed are provided in the Regulatory Agreement which shall be recorded concurrently with issuance of this Certificate of Completion.

3. This Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of the Participant to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the construction of the Project on the Site. This Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IN WITNESS WHEREOF, the Agency has executed this Certificate of Completion as of this _____ day of _____, 2004.

REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS

By: _____
Chairman

By: _____
Secretary

"AGENCY"

ACCEPTED BY: _____
Milpitas Redevelopment Agency

By: _____
Title: _____

By: _____
Title: _____

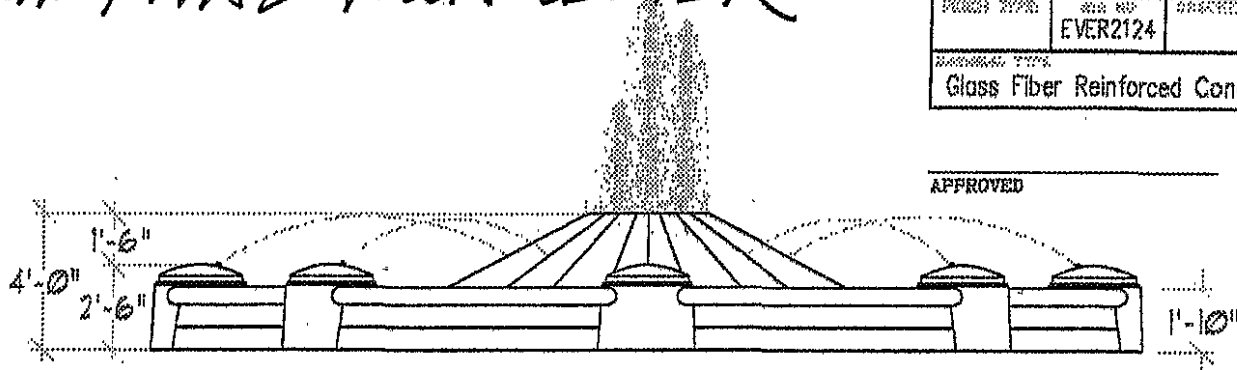
EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

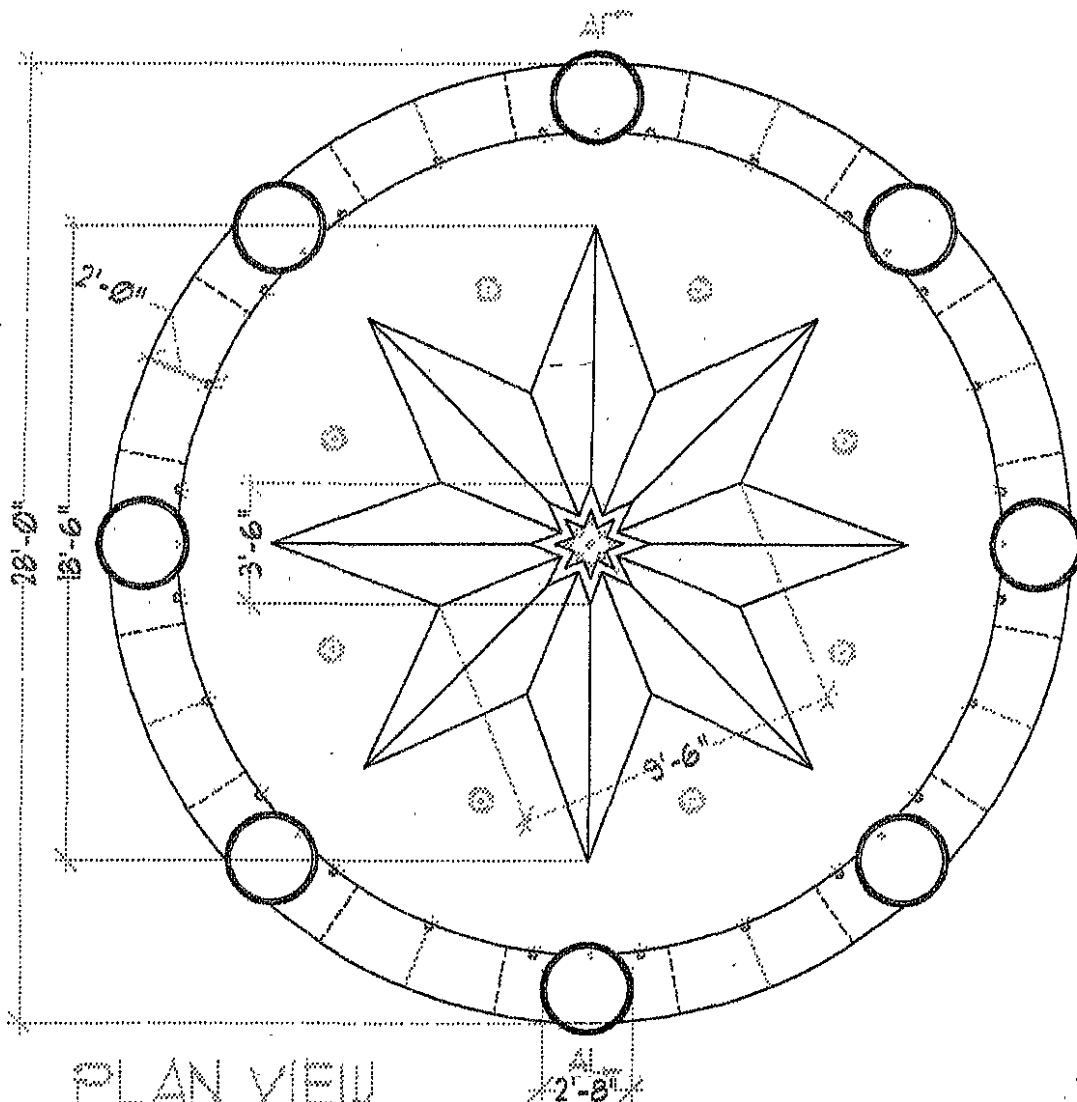
PROPOSED FOUNTAIN DESIGN

MILPITAS TOWN CENTER

REVISION	DATE	BY	DATE
1	5/14/02	MAF	100
PROJECT NO.	DATE	PROJECT NO.	DATE
EVER2124	5/14/02	EVER2124	5/14/02
Glass Fiber Reinforced Concrete (GFRC)			



ELEVATION



PLAN VIEW

CUSTOM 28'-0" ϕ FOUNTAIN

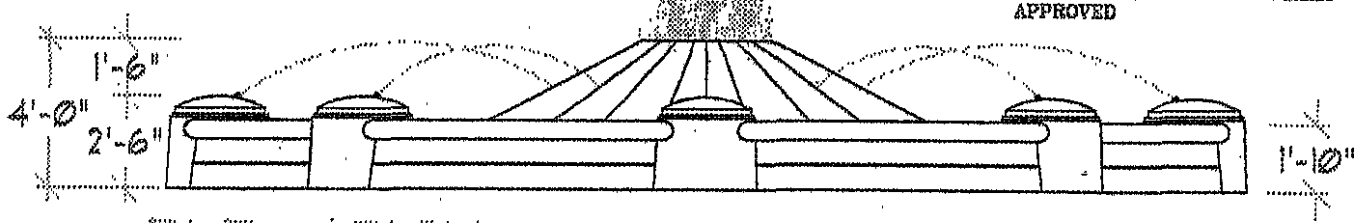
SCALE: 3/16" = 1'-0"

STONEWEAR
FOUNTAINS

PROPOSED FOUNTAIN DESIGN MILPITAS TOWN CENTER

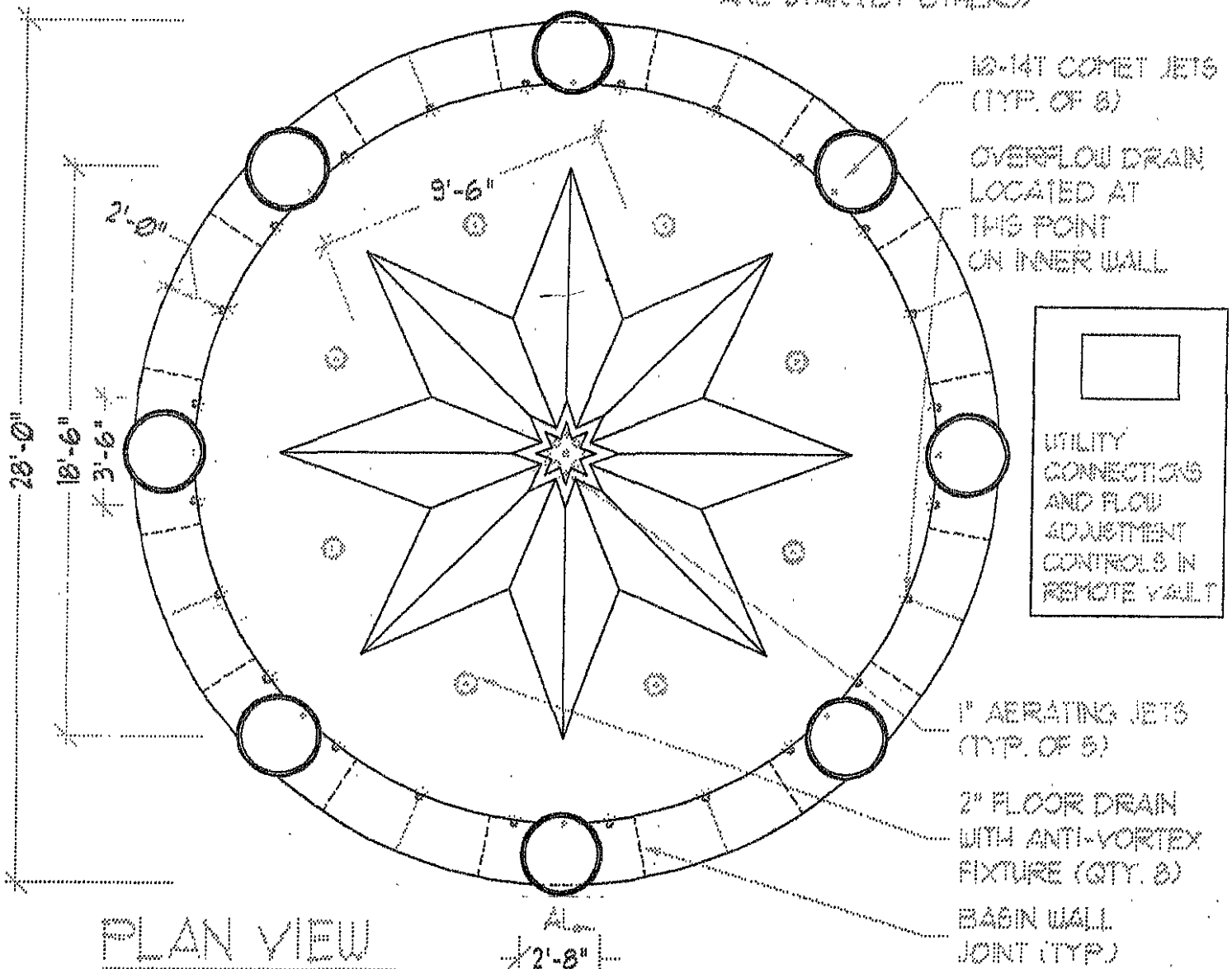
3/18/02r1
4/1/02r2
4/30/02r3

6/7/02r4	EVERplan1	MAF	1a
PROJECT TYPE	JOB NO.	DESIGNED BY	DATE
	EVER2124		3/11/0
BATHING POOL Glass Fiber Reinforced Concrete (GFRC)			



ELEVATION

NOTE:
TILE ON BASIN FLOOR
AND STAR (BY OTHERS)



PLAN VIEW

CUSTOM 28'-0" ϕ FOUNTAIN

SCALE: 3/16" = 1'-0"

STONEWEAR
FOUNTAINS

PROPOSED FOUNTAIN DESIGN MILPITAS TOWN CENTER

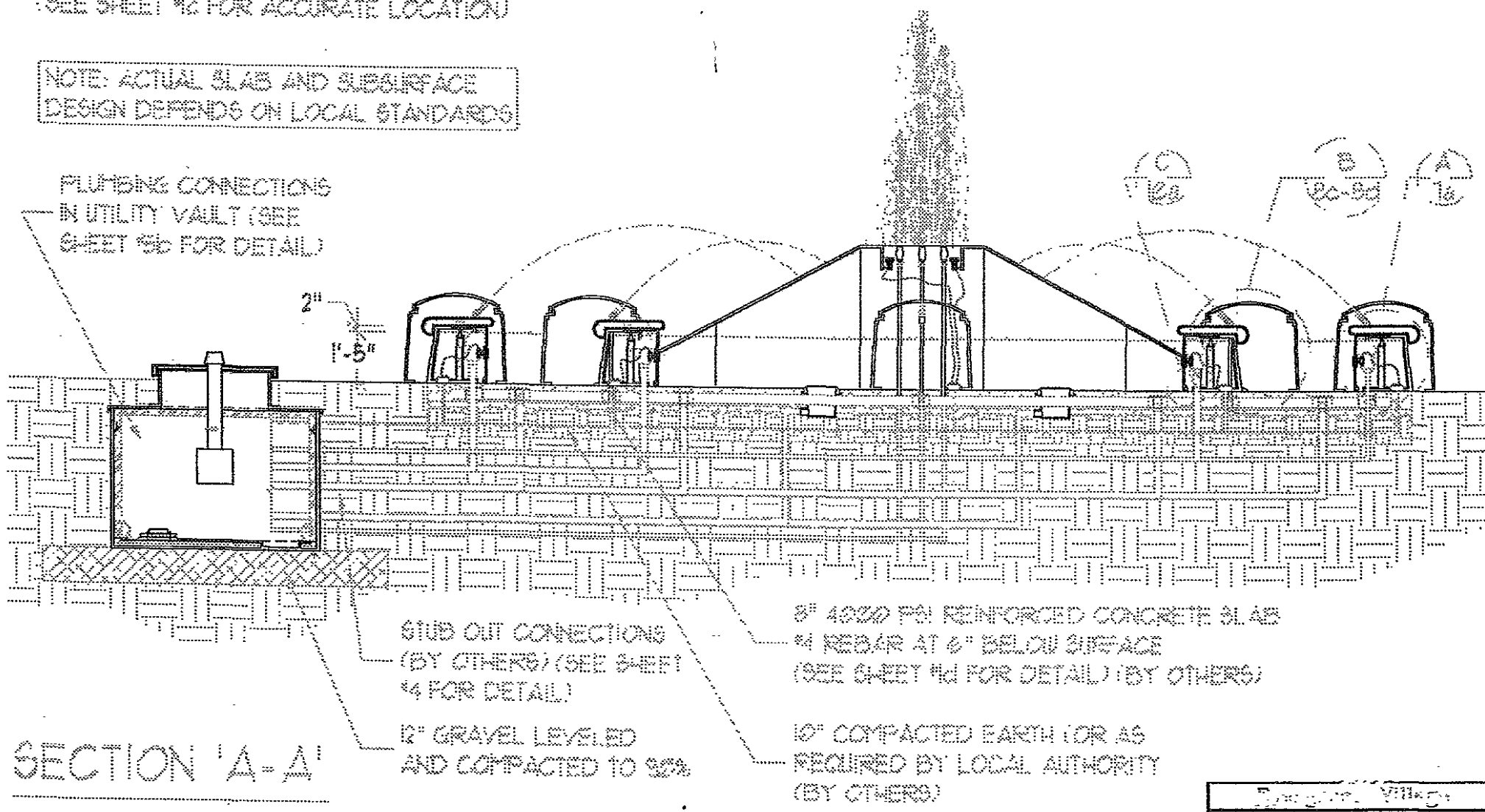
FLOW CAPACITY 0-350+ GPM
FLOW ADJUSTMENT * 275+ GPM

DATE / REV 6/7/02r1	APP. EAC EVERsecA	DESIGN BY MAF	SHEET NO. 2a
FORN. CTRY EVER2124	APP. EAC EVER2124	CHECKED BY MAF	CDD. DATE 4/30/03

SEE SHEET 9c FOR CENTER FEATURE DETAIL

PLUMBING IS REPRESENTATIONAL ONLY
(SEE SHEET 9c FOR ACCURATE LOCATION)

NOTE: ACTUAL SLAB AND SUBSURFACE
DESIGN DEPENDS ON LOCAL STANDARDS



SECTION 'A-A'

SCALE: 1/4" = 1'-0"

Stonewear Village
**STONEWEAR
FOUNTAINS**